

1 had receive authorization?

2 A No. It was my assumption based upon the procedure  
3 I requested and what other people had told me that  
4 operations was keeping a list of buildings that were  
5 activated and coordinating the licensing of those buildings  
6 with counsel in Washington.

7 Q During this same period, 1994 through the end of  
8 April 1995, what reports did you receive on a regular basis  
9 from sales and operations relating to installations?

10 A We had a weekly staff meeting of Liberty rarely  
11 missed. It was all hands. And the department heads would  
12 submit the summary of weekly activity for their department.  
13 So there would be a marketing report which would discuss the  
14 buildings that had been contracted that week and signed  
15 which would be added to the log in that report of buildings  
16 that were already contracted for service. And it would also  
17 include a list of prospective buildings where either we were  
18 close to an agreement or where discussions had begun to  
19 obtain an agreement.

20 There was also an operations report which would  
21 consist of a summary of the buildings that were under  
22 construction that month, where sites were being built and  
23 whether those sites had been completed or their construction  
24 there had been completed; and then a list of prospective  
25 buildings where -- which were scheduled for construction in

1 the subsequent month or months, and finally a customer  
2 service report -- one more I forgot -- which was a log of --  
3 an analysis of customer complaints or inquiries for the week  
4 and what was the type of them, how were they resolved and  
5 what were the trend lines. Those would be the three basic  
6 reports.

7 Q Prior to the end of April 1995, from the reports  
8 you have just described or any other report, were you aware  
9 of any Liberty service that was unauthorized?

10 A No, I was not.

11 Q When did you first learn that there was such  
12 unauthorized service?

13 A I learned -- at least it became apparent that  
14 there was very probably unauthorized service at the end of  
15 April 1995. I believe it was --

16 Q Could I ask you to take a look at what has been  
17 marked as Time Warner/Cablevision Exhibit 35?

18 JUDGE SIPPEL: That's in this book here. And  
19 there's a tab. Let me give it to the Reporter. Would you  
20 please hand it back to that other exhibit, the one that  
21 you've put over there? Thank you.

22 BY MR. SPITZER:

23 Q And if you could just continue with your answer to  
24 the prior question.

25 A Yes, this is a memorandum from Behrooz Nourain,

1 our engineer, to Edward Milstein who was co-chairman of the  
2 company on April 26th, 1995. Copies are typed and shown to  
3 John Tenety who was head of construction and Anthony  
4 Ontiveros who was our general manager of operations. My  
5 name is written in as a copy.

6 I believe I saw this document. I don't think it  
7 was that day. I believe it was the next morning on the 27th  
8 of April. And from this document, it was alarming to me  
9 that there was a discrepancy that I observed for the first  
10 time between sites that we had constructed and were  
11 operating, and what FCC authority had been obtained or not  
12 obtained.

13 Q Was it in the first two paragraphs of this  
14 memorandum, the language there that you gathered there was  
15 not authorization for the buildings that's listed beneath  
16 those two paragraphs?

17 A Yes. If you put the references together, the fact  
18 that 1) the paths were delayed for these sites due to  
19 emission designator changes which I didn't really understand  
20 what that meant -- but if you put that together with the  
21 next sentence which said, "In order to be able to turn on  
22 current customers, an STA is being filed", it struck me  
23 there was a -- there was a gap there between the turning on  
24 of service and the obtaining of authority.

25 Q And did you, when you looked at the buildings

1 listed on this memorandum, know that there were certain  
2 buildings listed there that were already being serviced?

3 A Yes, I did because I had personally participated  
4 in negotiating several of these contracts. And I knew that  
5 they had -- you know, that they had been secured in a prior  
6 year.

7 Q Now --

8 JUDGE SIPPEL: Did you know this off the top of  
9 your head or did you have something that you had to refer  
10 to, a document?

11 THE WITNESS: No, sir. I was personally -- I  
12 walked several of these sites like the -- the GM building.  
13 So I was intimately familiar with a few of these sites. And  
14 from that litmus test, I could quickly tell that these were  
15 buildings in operation. Normally if I looked at dozens and  
16 dozens of sites, I wouldn't know for sure because I wasn't  
17 personally involved. But something like the General Motors  
18 building which I presumed to be on this list, although the  
19 address is slightly wrong, I was there so I knew these sites  
20 were operational. 30 Waterside, I sat in the lobby and, you  
21 know, watched the marketing people sign up customers.

22 JUDGE SIPPEL: So you knew as soon as you saw the  
23 document?

24 THE WITNESS: Yes, sir.

25 JUDGE SIPPEL: Okay.

1 BY MR. SPITZER:

2 Q And in the first paragraph of this memorandum, it  
3 says, "reference to our phone conversation." Were you a  
4 party to the phone conversation that's referred to there?

5 A No, I was not.

6 Q What did you do upon receipt of this memorandum?  
7 What was the next step in your inquiring about the  
8 possibility of premature service?

9 A I immediately arranged for this subject to be the  
10 subject of a call with regulatory counsel that was scheduled  
11 for that same day. So the same day, I made sure this was a  
12 subject of discussion with our attorneys to validate what  
13 appeared to me to be a problem. I couldn't be absolutely  
14 positive about the details because there were terms in here  
15 like emission designator and contradictions about paths that  
16 were "delayed" that I didn't quite understand why they were  
17 delayed, and then requests for STAs suddenly for sites that  
18 I presumed were already authorized.

19 So I couldn't myself determine what was going on  
20 here. But I thought the best course would be 1) to talk to  
21 our operations people which I did that same day and 2) talk  
22 to regulatory counsel to find out how we should best take  
23 care of this.

24 Q Do you recall approximately what time of day that  
25 conference call took place?

1           A     I believe it was late afternoon, 4:00 or perhaps  
2 even 5:00 on the afternoon of the 27th of April.

3           Q     And where were you on the 27th physically? Were  
4 you in D.C. or New York?

5           A     I was in New York City.

6           Q     Do you recall who the participants were in that  
7 conference call?

8           A     I recall definitely there were people from Pepper  
9 & Corazzini. Whether it was Howard Barr or Mike Lehmkuhl or  
10 who from the firm I don't precisely recall. I believe there  
11 was someone on the call from -- from Ginsburg, Feldman, but  
12 I -- I can't say specifically. I believe Lloyd Constantine  
13 from Constantine firm was on the call.

14          Q     If -- if there were somebody from the Ginsburg  
15 firm, who would it most likely have been?

16          A     It would most likely be Henry Rivera who I dealt  
17 with most of the time. But I also dealt with Larry Solomon  
18 and Randy Joyce and Jay Newman and several other associates  
19 at the firm. But generally it was Henry who was in town.  
20 But Henry traveled a lot, so often it was someone else.

21          Q     Do you recall where the other participants to that  
22 conference call were?

23          A     The Pepper & Corazzini connection was Washington.  
24 I believe Lloyd Constantine was also in Washington that day.  
25 I think he was out of town. And that's --

1 Q Okay.

2 A Washington and New York. I was in New York. They  
3 were in Washington.

4 Q Do you recall what the conclusion was that you  
5 reached with respect to what you should do?

6 A The first and most important order of business was  
7 informing the FCC it was clear that we had a problem. It  
8 was only a question of the depth and scope of the problem  
9 and how we would accurately report it. So the first order  
10 of business was reporting it to the FCC.

11 And the second and related issue was how we  
12 accurately and fully reported it, and in what context; what  
13 should be -- should we immediately call up and say we have  
14 problem; should we get on the next airplane; should we dig  
15 internally to find out exactly what was going on and then in  
16 the full context make our report. But that was -- those  
17 were among the subjects of the discussion.

18 Q You have essentially laid out two alternatives.  
19 One is to pick up the phone instantaneously. The other is  
20 to do an inquiry to find out what you believed the scope was  
21 before reporting to the FCC. Which of those two tracks did  
22 you pursue?

23 A Well, the track we pursued -- and I'm not sure in  
24 reflection it was the right track, although even today it  
25 troubles me. This was bad news for us. This -- we had done

1 something that to my mind was clearly wrong; at best stupid  
2 and at worst unlawful. So we had to report it.

3 The question -- the issues we dealt with there  
4 were if we report and we really don't know fully what was  
5 going on, we just feel we've got a major problem here but we  
6 don't have any rational explanation of how this happened;  
7 the extent of it; who was responsible -- we felt that if we  
8 did that and did it -- and put it on the public record, it  
9 would invite a severe and immediate reaction from Time  
10 Warner who reacted every day to our existence in New York  
11 and challenged us in every way.

12 And we felt this would create a public spectacle  
13 and a public embarrassment for the company. And we thought  
14 it was more -- and perhaps a challenge by the FCC that we  
15 really didn't know anything about what we were doing if we  
16 couldn't even answer what the hell had happened.

17 So we decided -- and I was, you know, an author of  
18 that decision -- that -- not an author in writing, but a  
19 principal in that decision -- that we should find out what  
20 exactly went on here, how it happened, who was responsible,  
21 and at least how many sites were affected because this  
22 document itself didn't tell me that this was the beginning  
23 of the end.

24 And I wanted to find out before we went to a  
25 public forum and invited public scrutiny by our competitor



1 exactly what was happening. And we decided that was a  
2 better way to do it than to do some kind of numb mea culpa  
3 which really we didn't feel would accomplish anything other  
4 than perhaps blowing up in our face.

5 Q Did you subsequent to this conference call also  
6 pursue an inquiry with your operations staff?

7 A Yes. We -- I believe we -- I -- I don't remember  
8 whether this call delayed the normal Liberty staff meeting  
9 beyond 5:15 when it would normally take place. But if we  
10 didn't -- if we did have it, I -- I certainly at that time  
11 told Tony Ontiveros who would be attending that meeting  
12 about this problem; asked him about this memo because he was  
13 copied on it. And this was what I was reciting to the  
14 lawyers on the phone when I was talking to them.

15 And even if we didn't have that meeting because  
16 I -- at that point, things got very crazy and I don't  
17 remember exactly what happened next -- but at the bare  
18 minimum, I called Tony and said I want you and Behrooz  
19 Nourain in our office -- they were uptown and we were in  
20 midtown -- in our office tomorrow morning to get to the  
21 bottom of this and find out precisely and exactly what's  
22 going on here; and I want you to be fully prepared to talk  
23 about that.

24 Q And do you recall whether you had that meeting?

25 A Yes. We had the meeting I believe it was the next

1 morning. It was certainly the next day. I believe it was  
2 morning of the next day. And as I recall, it was myself and  
3 Edward Milstein meeting with Tony and Behrooz. And we were  
4 really angry and upset and, frankly, embarrassed because we  
5 had positioned ourself as the David in this David and  
6 Goliath battle. And we're not used to being painted as the  
7 ugly evaders of the law.

8 Q Did you direct Tony and Behrooz to do anything in  
9 particular after you had that meeting?

10 A Yes, we did. We asked them to go back and take  
11 their files out; check there all of our sites against all of  
12 our licenses and to do that in conjunction with Washington  
13 counsel and report back immediately, although we knew that  
14 wasn't going to be easy because we had I think at that point  
15 over a hundred licenses and dozens pending -- to report back  
16 as soon as possible, the same day if not by Monday, exactly  
17 what was going on.

18 Q Now, you said you had a meeting as among you, Ed  
19 Milstein, Tony Ontiveros and Behrooz Nourain. Is that  
20 correct?

21 A That's correct.

22 Q Was Howard Milstein party to that meeting?

23 A I don't recall he was there. I think he was out  
24 of town.

25 Q Did you -- do you recall -- if I follow your

1 chronology, would this meeting then have been on Friday the  
2 28th?

3 A Yes, I believe it was.

4 Q Okay. Do you remember when Howard Milstein got  
5 involved in this process?

6 A Howard would have I know been involved instantly  
7 if he were in town. That's why I presume he was out of  
8 town. Something this serious would not go unnoticed and the  
9 alarm would go off loudly. As I recall, Howard and Edward  
10 and I met on it Monday morning following that Friday.

11 Q Which would have been May 1st, is that correct?

12 A I think Monday was the 1st.

13 Q I'll ask you to look at --

14 JUDGE SIPPEL: Let me ask a question --

15 MR. SPITZER: Yes, sir.

16 JUDGE SIPPEL: -- first before you -- on that  
17 telephone conference call on the afternoon of the 27th to  
18 Washington -- I'm sorry -- who else, if anyone, was in your  
19 office when you were making that call?

20 THE WITNESS: I don't recall if -- I don't recall  
21 if Howard or Edward were involved. I don't Howard was on  
22 that call. Edward may have, but I don't remember  
23 specifically if he was.

24 JUDGE SIPPEL: Somebody was in your office though  
25 when you were calling the lawyers.

1 THE WITNESS: I'm not positive.

2 JUDGE SIPPEL: Would you make a call like that  
3 alone?

4 THE WITNESS: Oh, yes, given what I saw there.  
5 And it was a call we had set up already to discuss I believe  
6 it was one of the Time Warner petitions to deny. So this  
7 was a call as -- I believe that was scheduled that these  
8 parties would be in their offices and we would be on the  
9 phone.

10 JUDGE SIPPEL: Did anybody suggest calling Mr.  
11 Ontiveros and Nourain up to your office to participate in  
12 that call?

13 THE WITNESS: No, because I think we wanted the  
14 advice of counsel as to what we should do both internally  
15 and externally before we got our people involved. We  
16 thought we had a serious problem and we wanted to make sure  
17 we were dealing with it correctly and get the doctor's  
18 advice before we got other people involved.

19 JUDGE SIPPEL: It's your own people you're talking  
20 about now.

21 THE WITNESS: Yes.

22 JUDGE SIPPEL: I mean, but they're the ones that  
23 had the -- they're the ones that had the facts, F-A-C-T-S.

24 THE WITNESS: Well, we -- we presumed that --

25 MR. SPITZER: It's an important distinction, Your

1 Honor.

2 THE WITNESS: -- Pepper & Corazzini who worked  
3 with them every week if not every day on the subject would  
4 have the same set of facts or a pretty good idea of what --  
5 the depth of the problem. I could tell just from the face  
6 of this there was a problem. We were -- it was a question  
7 of how we proceeded and how we dug into the problem. And we  
8 felt the first thing to do was to ask counsel about how we  
9 wrap this in the right kind of procedure before we just  
10 willy-nilly started to go hold meetings with people.

11 JUDGE SIPPEL: All right. But you -- at that --  
12 as far as the -- the 27th is concerned, you and outside  
13 counsel were the only ones that were aware that you had a  
14 problem. We had a problem of this dimension.

15 THE WITNESS: Well, no. I took it from the face  
16 of reading this that our own people -- that anyone reading  
17 this would be aware we had a problem. So I presume while  
18 this didn't say specifically that we were providing  
19 unauthorized service, it didn't take great genius to figure  
20 that out just from the face of this document.

21 JUDGE SIPPEL: I see. But --

22 THE WITNESS: I presumed our operating people were  
23 telling me, boss, we have a problem; what -- we're inviting  
24 your advice or at least there's something here that's --  
25 that's broken. We need some guidance as to how to fix it.

1 JUDGE SIPPEL: But -- but -- would the way to --  
2 the -- the logical and effective way to do that would have  
3 been to pick up the phone and say we think that we may have  
4 some premature -- prematurely unauthorized activations; we  
5 need to talk to you about it? This memo to me -- you were  
6 able to figure it out very quickly. But it -- it is not as  
7 clear as -- as I would think bringing that information to  
8 your attention would want to be.

9 THE WITNESS: Well, I think it indicated we had a  
10 problem.

11 JUDGE SIPPEL: Yes.

12 THE WITNESS: And the -- and we wanted to get  
13 legal advice before -- we didn't know the degree to which --  
14 even the question of emission designator changes and some  
15 technical things here, I didn't even understand what all  
16 that was about. But before we started to dig in on it, we  
17 simply wanted to ask our lawyers what we should do to make  
18 sure we were doing the right thing.

19 JUDGE SIPPEL: But -- but this doesn't say that  
20 there were unauthorized activations. This memo says that  
21 STAs should be filed -- it was recommended that STAs be  
22 filed in order to be able to turn on the current customers.  
23 It doesn't say that here are some unauthorized activations;  
24 we better do something about it.

25 THE WITNESS: No. I say if you put together the

1 first paragraph and the second paragraph, it said there  
2 could very well be a gap here. And I couldn't understand  
3 why we were applying for STAs if we already had these paths.  
4 But it says the paths were delayed, and I didn't understand  
5 that. So this to me smacked of more of a regulatory issue  
6 as to what were the paths that were delayed and why were we  
7 covering ourselves and did this have to do -- when I first  
8 read it, it looked to me on the first read like it was a  
9 technical issue.

10 It looked like, well, for some reason we have to  
11 amend our license because some code is wrong. And then when  
12 I read it again and looked at it, it appeared to me that,  
13 well, wait a minute; did we have the license to begin with;  
14 and if they were delayed, did we or did we not have  
15 authority. And if we didn't have authority, then these STAs  
16 were designed to cover buildings where we didn't have  
17 authority and we were operating. But perhaps not.

18 It indicated to me we had a problem. The depth of  
19 the problem the extent of the problem, was there  
20 unauthorized service, how did it happen, when did it happen,  
21 I couldn't tell that from reading this memo.

22 JUDGE SIPPEL: But you were able to still have  
23 enough information from this memo to call the attorneys and  
24 bring it to their attention.

25 THE WITNESS: Yes, sir. Well, to include that in

1 the conversation we were having with the attorneys. That  
2 was a scheduled call to respond I believe to Time Warner --  
3 one of Time Warner's petitions to deny.

4 JUDGE SIPPEL: And then this was enough  
5 information for you to work out a -- a -- a plan for how to  
6 go about informing the FCC.

7 THE WITNESS: No. It was -- it was enough  
8 information for me to ask the attorneys whether this was a  
9 problem and whether this -- what we should do with the FCC.  
10 I mean, I -- I had to ask them and find out on the telephone  
11 that, yes, this was a problem; that there could very well be  
12 unauthorized service being provided which was the response  
13 of the firm on the telephone.

14 JUDGE SIPPEL: Well, maybe I -- maybe I -- I  
15 thought I heard you say that on the 27th, it was actually  
16 decided that there would be this more detailed report made  
17 to the FCC rather than notifying them right away that there  
18 was a problem. And yet --

19 THE WITNESS: This was -- this was -- this was the  
20 beginning of that process as to what we should do. We had  
21 several meetings on that subject. But one of the initial  
22 questions raised by counsel was -- and one of the options  
23 was should we immediately inform the FCC. And that was one  
24 of the issues we discussed. But after I heard from counsel  
25 that, yes, there was a jeopardy here that we were providing



1 unauthorized service. The call was probably an hour or so  
2 long. So it progressed from one point to another.

3 JUDGE SIPPEL: Now, this was -- this memo is dated  
4 the 26th and it went to Mr. Milstein.

5 THE WITNESS: That's correct.

6 JUDGE SIPPEL: Mr. Edward Milstein. And Mr.  
7 Milstein -- did you -- did he receive this on the 26th?

8 THE WITNESS: I can't say whether he received this  
9 on the 26th. He may have received it on the next day, as  
10 well.

11 JUDGE SIPPEL: You didn't ask him that question.

12 THE WITNESS: No, I didn't ask him the question  
13 because the -- Behrooz is in another office substantially  
14 uptown from us. But, you know, when I got involved, I just  
15 presumed Edward Milstein had seen the memo since, you know,  
16 I was getting a copy of the memo to him.

17 JUDGE SIPPEL: Well, does the procedure at that  
18 time entail Mr. Nourain having access to a fax machine -- a  
19 fax machine that would get it directly up to Mr. Milstein  
20 when he comes in?

21 THE WITNESS: Well, they had a fax in their  
22 office. But I didn't -- the copy at least that I got didn't  
23 have a fax transmission on it --

24 JUDGE SIPPEL: And --

25 THE WITNESS: -- or a cover sheet.

1 JUDGE SIPPEL: Did -- did you have occasion to  
2 talk to Mr. Edward Milstein before you talked to the lawyers  
3 about this?

4 THE WITNESS: Yes. I -- we're in the next office  
5 and I would have talked to him and suggested that we talk to  
6 the lawyers right away.

7 JUDGE SIPPEL: Is this your recollection that you  
8 talked them before you talked the lawyers? Is that what you  
9 recall?

10 THE WITNESS: I can't -- I can't say for sure I  
11 did that. Since we had adjoining offices, if he were there  
12 and available, I might have. Whether he was there between  
13 the time -- I think I got this the day after which would be  
14 the 27th and that was the same day I talked to the lawyers.  
15 You can be sure that if he were in the office and I was  
16 going to be talking to the lawyers about a petition to deny  
17 and it raised in conjunction with it substantial issues  
18 about whether we were doing something wrong, I would have  
19 talked to him. Whether he was there and whether I talked to  
20 him, I don't specifically remember.

21 JUDGE SIPPEL: Well, the only way I can be sure if  
22 you say you recall you talked to him, you don't recall  
23 having talked to him. So we don't know whether you talked  
24 to him.

25 THE WITNESS: No, I can't recall I did.

1 JUDGE SIPPEL: Okay. Then this information was  
2 somehow circulating around your company sometime on the  
3 26th. Can you tell us as to whether or not it was before  
4 the close of business on the 26th?

5 THE WITNESS: I don't know.

6 JUDGE SIPPEL: You don't know that.

7 THE WITNESS: I don't know that.

8 JUDGE SIPPEL: But it wasn't until late on the  
9 27th that you actually -- that -- that the inquiry went from  
10 you to somebody who should know about -- more information  
11 about this. Is that correct?

12 THE WITNESS: That's correct.

13 JUDGE SIPPEL: That being the -- the Pepper &  
14 Corazzini law firm.

15 THE WITNESS: That's correct. And also, I  
16 anticipated since we had a Liberty staff meeting that night  
17 I would be seeing Tony Ontiveros that night, too. So I knew  
18 that I would be talking to the lawyers in the afternoon and  
19 I knew we had a Liberty staff meeting that night. And I  
20 received the memo as I recall the same day.

21 JUDGE SIPPEL: The same day being the 27th.

22 THE WITNESS: Right. And when I received it on  
23 the 27th I don't know. It could have been morning. It  
24 could have been early afternoon. I don't know.

25 JUDGE SIPPEL: All right.

1 MR. SPITZER: If I could just ask one question  
2 which airs on the questions you were asking, Your Honor.

3 BY MR. SPITZER:

4 Q The piece of information that you added to what is  
5 stated on the face of this memo if I heard you properly was  
6 that you knew that some of the buildings listed here were  
7 being serviced.

8 A That's correct.

9 Q Although it does not say that expressly in this  
10 memorandum.

11 A That's correct.

12 Q And when you said earlier that you presumed people  
13 at operations would draw the same conclusion you reached,  
14 that was because you presumed they knew what buildings were  
15 being serviced.

16 MR. HOLT: Objection. Leading.

17 THE WITNESS: That's correct.

18 JUDGE SIPPEL: I'll sustain the objection, but a  
19 little too late.

20 MR. HOLT: I move to strike.

21 JUDGE SIPPEL: I -- yes, well, it's not going to  
22 be -- it's not going to be given any weight. Don't worry.

23 BY MR. SPITZER:

24 Q Mr. Price, you also said that in addition to  
25 speaking with counsel, you then pursued an inquiry with

1 operations. How did you pursue that and what did you ask --  
2 first, who at operations and what did you ask them to do?

3 A The first person I believe I -- I believe we had a  
4 staff meeting that night. But the only reason I say that is  
5 we almost invariably held these meetings. It might have  
6 gotten delayed because of this lengthy call with counsel  
7 which took place at the end of the day.

8 If I didn't raise it with Tony Ontiveros at the  
9 staff meeting, I raised it on the telephone because in fact  
10 there was a meeting the following morning in my office -- I  
11 think it was actually in Edward Milstein's office -- with  
12 the four of us, with Tony Ontiveros and with Behrooz Nourain  
13 to dig into what -- what did this language mean; what is the  
14 emission designator issue; why did these licenses get  
15 delayed; were we in fact without licenses on some of these  
16 sites we were operating; and what -- and would it be  
17 possible -- you know, was it -- what was the correct way to  
18 get authority at this point.

19 Q Do you recall what the reaction was on the part  
20 of, first, Mr. Tony Ontiveros when you raised this issue at  
21 the meeting?

22 A I think that they were apologetic. I think there  
23 was a feeling that they had somehow let us down; that there  
24 was at best miscommunication here and that somehow through  
25 some lack of contact or coordination or a procedure being in

1 place that, indeed, service was being supplied to buildings  
2 where we didn't have proper authorization.

3 But even then, I didn't get from them a clear  
4 picture of which sites it related to; was this list  
5 inclusive; did this -- in fact, it was my impression that  
6 related to emission designator changes and was somehow a  
7 list of some particular character that related to the fact  
8 that applications that we had made were somehow flawed  
9 because of some technical reason and that that was the  
10 subject of this list. But it led me to ask them, well, what  
11 about all our licenses.

12 JUDGE SIPPEL: Well, but that -- you say you were  
13 that uncertain -- I'm sorry, but I'm trying to get this  
14 clarification here.

15 MR. SPITZER: Yes, please, Your Honor.

16 JUDGE SIPPEL: You were that uncertain when you  
17 were talking to them the morning of the 28th with respect to  
18 the scope. But you said that you -- later in the evening of  
19 the day before, you were talking to the attorneys in  
20 Washington who would be -- have as much information as these  
21 people. I mean, that's the sum and substance of what your  
22 testimony was.

23 THE WITNESS: Yes. I presumed that they did.

24 JUDGE SIPPEL: Well, did they tell you -- did the  
25 attorneys in Washington give you more information?

1 THE WITNESS: No, they did not. They said they  
2 would have to check their records.

3 JUDGE SIPPEL: Okay. So they didn't know.

4 THE WITNESS: No, they couldn't give me a  
5 definitive answer. They said, yes, I think we have a  
6 problem.

7 JUDGE SIPPEL: Then did they tell you what you  
8 should do? Did they give you advice as to what you should  
9 do?

10 THE WITNESS: We discussed a variety of things  
11 about how to proceed. The first and foremost was how do we  
12 deal with the FCC; do we tell them right away or do we dig  
13 into this to try to give them an informed explanation before  
14 we contact the FCC.

15 JUDGE SIPPEL: All right. What I'm talking about  
16 is did they give you some advice in terms of how you should  
17 proceed internally? In other words, something to the effect  
18 of, Mr. Price, I think it would be a very good idea if you  
19 went down and talked to your operations people and got some  
20 details or, Mr. Price, maybe we should meet you up there and  
21 talk to these people.

22 THE WITNESS: Well, I think --

23 JUDGE SIPPEL: Anything along those lines?

24 THE WITNESS: No, I don't think it was advice  
25 coming from them. I think I said I have a meeting right

1 after this. Or if I didn't -- if it was getting delayed,  
2 I'd have a meeting in the morning where I'm going to dig  
3 into this with the people directly in charge.

4 JUDGE SIPPEL: Okay. Okay, I hear you.

5 BY MR. SPITZER:

6 Q Mr. Price, I'd ask you to look at what has been  
7 marked as Time Warner/Cablevision Exhibit 34 which may be at  
8 the -- the back of the big binder, maybe behind the last  
9 tab.

10 JUDGE SIPPEL: They're tabbed. There should be a  
11 tab and it says 34.

12 THE WITNESS: Right.

13 JUDGE SIPPEL: Okay.

14 THE WITNESS: Got it.

15 BY MR. SPITZER:

16 Q Do you see this memorandum?

17 A Yes, I do.

18 Q And do you recall receiving this memorandum?

19 JUDGE SIPPEL: Look and see who it's addressed to.

20 THE WITNESS: Yes, I do recall receiving it.

21 BY MR. SPITZER:

22 Q Do you know -- did you request that this  
23 memorandum be prepared?

24 A No, I did not.

25 Q And did this memorandum assist you -- first, do



1 you remember when you received it?

2 A I believe I received it on the -- April 28th, that  
3 same day. I think it was either the end of the day or, if  
4 it wasn't the end of the day, it was Monday morning because  
5 I think that it was either late in the day and I believe  
6 this is a Friday. And I'm -- if I didn't see it late  
7 Friday, I would have seen it late Monday when I got into the  
8 office.

9 Q Does the text of this memorandum, essentially one  
10 and half pages or less, refer in any way to premature  
11 service?

12 A May I just read it again?

13 Q Absolutely.

14 A No, it doesn't appear that --

15 MR. SPITZER: Are we on the record? Okay. I'm  
16 sorry.

17 THE WITNESS: No, it doesn't appear to refer to  
18 premature service.

19 BY MR. SPITZER:

20 Q Nonetheless, when you received this memorandum,  
21 did it assist you in determining whether or not there was  
22 premature service?

23 A Yes, I -- I believe putting this together with the  
24 prior document, that it said that we were in jeopardy here  
25 of providing several sites with service where we didn't have